THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.17789 of 2005

21st July 2006

Between:

1. The Director General of Works Central, PWD, Nirman Bhavan, New Delhi.

And two others.

...PETITIONERS

AND

R.S.Mohan Raj, S/o.Sri R.Laxminarayana, 54 yeas, Occ.Working as UDC in Hyderabad Central D.No.III C.P.W.D., Hyderabad,R/o.Flat G-4, Ahalya Apartments, Pedda Thokatta, Bowenpally, Secunderabad.

...RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.17789 of 2005

ORDER: (Per the Hon'ble Mr Justice Ramesh Ranganathan)

Aggrieved by the order of the Central Administrative Tribunal, Hyderabad ('the Tribunal' for brevity) dated 04.05.2005 whereby, the petitioners herein, (respondents in the O.A.), were directed not to fill up the posts in the second panel for a period of one year from the date on which the earlier panel of candidates were selected, this Writ Petition is filed.

A notification was issued on 31.05.2002 for promotion to five posts of Head Clerks. The respondent/applicant participated in the selection process and in the panel of selected candidates, he stood at Sl.No.5. The first four in the said list were appointed as Head Clerks. The grievance of the respondent herein, before the Tribunal, was that the notification required the panel to be kept alive for a period of one year from the date on which the

earlier panel of selected candidates was prepared. Even before expiry of that one year period, the petitioners herein issued a notification afresh inviting applications to fill up five posts of Head Clerks. Even in the subsequent notification, there was a stipulation that the existing vacancies, or any vacancies which may arise during the year, would be filled up from out of the existing panel. The Tribunal found fault with the petitioners herein in not giving effect to this condition and directed the petitioners to accommodate nine candidates from the panel, as nine candidates, after the death of one Sri T.Srinivas who died before his promotion, were available in the panel as at present. The O.A. was disposed of holding that since the applicant stood at Sl.No.5 in the list, his grievance would be redressed if all the nine candidates in the earlier panel were promoted since the subsequent notification itself required the existing vacancies and the vacancies that would arise during the year also to be filled up from the panel.

Sri A. Rajashekar Reddy, learned Assistant Solicitor General, would refer to the conditions in Office Memorandum

No.5/52/98-EC IV (C) dated 03.08.1999 to submit that it is incumbent upon the authorities to conduct an examination each year and that the selected candidates are required to be kept in the panel only till the end of a calendar year as the next selection process is required to be commenced in January of the next year. Learned counsel would submit that due to certain unforeseen circumstances, which resulted in delay in completing the selection process and instead of examinations being held in January, the entire selection process spilled over to the next year when the results came to be declared only on 30.04.2003. According to the Learned Assistant Solicitor General, if the relief granted by the Tribunal was not set aside, this problem would recur each year.

We are afraid, we cannot agree. Both the earlier notification and the subsequent notification contain a clear stipulation that the existing vacancies, and the vacancies which would arise during the course of the year, would be filled up from the empanelled candidates. The apprehension that the relief granted by the Tribunal would result in this discrepancy

continuing forever is also misplaced. It is only if the authorities concerned decide to fill up vacancies in a particular year are they required to follow the procedure of conducting an examination in January itself. It is always open to the authorities to fill up the vacancies, which arise during a particular year in the next year, in which event they would be able to comply with this requirements of holding an examination in the month of January each year. In view of the fact that both the earlier notification and the subsequent notification require the petitioners herein to fill up the existing vacancies, and the vacancies, which arise during the year, only from among the empanelled candidates, the order of Tribunal does not call for interference.

The Writ Petition stands dismissed. However, in the circumstances, without costs.

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(B.PRAKASH RAO, J)

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(RAMESH RANGANATHAN, J)

21st July 2006
RRB

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